

BEFORE THE COLORADO AIR QUALITY CONTROL COMMISSION
COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

**WPX ENERGY ROCKY MOUNTAIN, LLC'S AND WPX ENERGY PRODUCTION, LLC'S
MOTION TO REQUEST ADDITIONAL TIME AT HEARING AND CHANGE IN ORDER
OF PRESENTATION**

IN THE MATTER OF OIL & GAS RULEMAKING EFFORTS REGARDING PROPOSED
REVISIONS TO:
REGULATION NUMBER 3, PARTS A, B, AND C;
REGULATION NUMBER 6, PART A;
REGULATION NUMBER 7

WPX ENERGY ROCKY MOUNTAIN, LLC and WPX ENERGY PRODUCTION, LLC (collectively "WPX"), by and through undersigned counsel, respectfully request that the Colorado Air Quality Control Commission ("Commission") allow WPX additional time to present at the hearing and Order a change in the order of presentation at the hearing for WPX for the following reasons identified below.

On January 24, 2014, the Commission issued its Prehearing Order for Proceedings Scheduled for February 19-22, 2014 ("Order"). Pages 3-4 of the Order set out the "Order of Presentation and Allotted Time." The order slates WPX to present second from last (26th out of 27 parties presenting) and only provides WPX 10 minutes for testimony. WPX is concerned that its presentation is not grouped with its other industry peers and representatives. In addition, the amount of time allocated to WPX is only 10 minutes, which is too short a time frame to provide the Commission with its unique perspective and with information that is highly relevant to this rulemaking, especially when compared to the times allocated to other parties that have less involvement in the State and the industry.

WPX has participated fully in the rulemaking process from the very beginning of the Stakeholder process. WPX is also the largest natural gas producer in the State of Colorado and continues to lead in daily production volumes of natural gas in the state of Colorado – enough to meet the energy needs of three million homes per day. We are one of the few companies in 2014 continuing to invest and remain active in drilling and producing natural gas in the Piceance Basin.

WPX can provide the Commission with a unique perspective of large scale operations on the Western Slope and provide information to the Commission regarding the Western Slope perspective of the state-wide proposed rules, which no other party to the rulemaking can provide. WPX is known for investing in and employing efficiencies and innovative practices which result in minimizing impacts to the environment and communities we live and work in. Between our Denver and Parachute office, we have maintained a workforce of over 400 people in addition to the 740 vendors and service providers we create business for in the state. WPX paid \$62 million in *ad valorem* and

personal property taxes in 2012 and \$48 million in royalties for in-state wells including federal and Indian lands. Given the low natural gas commodity price environment, WPX is sensitive to the rising costs of regulation despite our commitment to doing things right and looking for opportunities to improve upon every aspect of our operations. It is imperative that we strike a balance between policy and practicality and our unique operations must be equally considered in the deliberations of a state wide policy such as the proposed Regulation 7 Rulemaking.

Based on its operations in the State, therefore, WPX believes that it should be slated to present with its other industry peers, who are currently slated to present to the Commission 5th through 12th (in the “Order of Presentation and Allotted Time”). Order at 3. WPX believes that by moving its presentation order to within that group, the Commission will be better able to consider the industry perspective as a whole. WPX would suggest that, slating it to present 13th in the order, would better serve the Commission and preserve the flow of presentation at the hearing.

In its Prehearing Statement, WPX requested 45 minutes to present. In requesting such time frames, WPX balanced the need to provide its unique perspective to the Commission with the reality of time constraints necessary for Commission hearings.¹

For comparison, Worldwide Liquids Solutions, a company that states that it is offering a technical solution to emissions, but that does not operate wells in the state, was provided 20 minutes to present – twice as much time as WPX, whose operations will actually be potentially significantly impacted by the proposed rule. At the other end of the spectrum, the parties who participated in drafting the current proposed rule (Environmental Defense Fund, Encana Oil and Gas, Noble Energy and Anadarko Petroleum), and therefore support the Division’s rule in its entirety, collectively have 200 minutes (3 hours and 10 minutes) to present their support. WPX is not seeking to reduce the time any of the mentioned parties have to present, but use them as examples of disparity and an indication that WPX should be provided the 45 minutes it requested to present.

Critically, the Procedural Rules expressly state that “[p]ersons granted party status *have the right to make an individual presentation* either orally or in writing or both, during the rulemaking hearing . . .” *Id.* Rule V.E.3.a. The Commission’s own Procedural Rules, 5 C.C.R. 1001-1 (“Procedural Rules”), are designed to promote open, fair and effective proceedings *with the input and participation of the general public.*” Procedural Rule I (emphasis added). The Procedural Rules also emphasize a policy discussion in rulemaking proceedings that “*is well supported by technical and scientific data*” and emphasizes that “these procedural rules are intended *to promote, rather than obstruct, public participation in decision-making.*” *Id.* (emphasis added). Such statements weigh in favor of granting WPX’s request to change the order of presentation as well as enlarge the time currently provided to WPX for presentation to the Commission.

Pursuant to Colorado’s Air Pollution Prevention and Control Act, while the Commission has authority under the APA to adopt rules and regulations governing procedures, the statute requires the adoption of such rules and regulations “as may be necessary to assure that hearings before the

¹ WPX was also one of the few parties who filed an alternative proposal, based on Prehearing Conferences at which the Commission directed that any substantive changes to the proposed rules be filed as such, and therefore needs time to present its proposal.

commission will be fair and impartial.” Colo. Rev. Stat. § 25-7-106(3). Granting WPX additional time at the hearing would allow WPX to present the unique perspective and technical information it has to ensure that the Commission can make a “thoughtful and well-informed decision[.]”
Procedural Rule I.

For each of these reasons, WPX respectfully requests that the Commission grant WPX’s Motion, by providing WPX 45 minutes to present at the Commission Hearing, and moving WPX up in the order of presentation, so that it is presenting with its peer industry members who are currently slated to testify 5th through 12th in the proposed presentation order.

Respectfully submitted this 28th day of January, 2014.

WPX ENERGY ROCKY MOUNTAIN, LLC and WPX
ENERGY PRODUCTION, LLC



By: _____

Lisa A. Decker #19962
Senior Counsel
WPX Energy, Inc.
1001 17th St., Suite 1200
Denver, CO 80202

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of January, 2014, the foregoing **WPX ENERGY ROCKY MOUNTAIN, LLC'S AND WPX ENERGY PRODUCTION, LLC'S MOTION TO REQUEST ADDITIONAL TIME AT HEARING AND CHANGE IN ORDER OF PRESENTATION** was filed and delivered via electronic mail to the following:

APPLICANT/NAME	REPRESENTED BY/ADDRESS
Office of Air Quality Control Commission	Air Quality Control Commission cdphe.aqcc-comments@state.co.us
Theresa Martin - Program Coordinator 303-692-3476	Air Quality Control Commission 4300 Cherry Creek Drive South, EDO-AQCC-A5 Denver, Colorado 80246 Theresa.Martin@state.co.us
Commissioner John Loewy – Hearing Officer	Air Quality Control Commission 4300 Cherry Creek Drive South, EDO-AQCC-A5 Denver, Colorado 80246 jloewy@mac.com
Mike Silverstein-Administrator/Technical Secretary 303-692-3478	Air Quality Control Commission 4300 Cherry Creek Drive South, EDO-AQCC-A5 Denver, Colorado 80246 Mike.Silverstein@state.co.us
Will Allison- Division Director 303-692-3114	Air Pollution Control Division Staff 4300 Cherry Creek Drive South, APCD B1 Denver, Colorado 80246 William.Allison@state.co.us
Garry Kaufman – Deputy Division Director 303-692-3269	Air Pollution Control Division Staff 4300 Cherry Creek Drive South, APCD B1 Denver, Colorado 80246 Garrison.Kaufman@state.co.us
Kirsten King -Program Manager 303-692-3178	Air Pollution Control Division Staff 4300 Cherry Creek Drive South, APCD B1 Denver, Colorado 80246 Kirsten.King@state.co.us

Tom Roan 720-508-6268	Office of the Attorney General-Commission Attorney Colorado Department of Law Natural Resources Section- Air Quality Unit 1300 Broadway, 10 th Floor Denver, Colorado 80203 Tom.Roan@state.co.us
Clay Clarke 720-508-6250	Office of the Attorney General-Division Attorney Colorado Department of Law Natural Resources Section- Air Quality Unit 1300 Broadway, 10 th Floor Denver, Colorado 80203 Clay.Clarke@state.co.us
Robyn Wille 720-508-6261	Office of the Attorney General-Division Attorney Colorado Department of Law Natural Resources Section- Air Quality Unit 1300 Broadway, 10 th Floor Denver, Colorado 80203 Robyn.Wille@state.co.us
Linda Miller 720-508-6277	Office of the Attorney General-Division Attorney Colorado Department of Law Natural Resources Section- Air Quality Unit 1300 Broadway, 10 th Floor Denver, Colorado 80203 Linda.Miller@state.co.us
Be The Change USA A Non-Profit Organization	Phil Doe 7140 South Depew Littleton, CO 80128 303-973-7774 ptdoe@comcast.net Wes Wilson 2505 Yates Street Denver, CO 80212 719-337-0402 anwwilson@comcast.net

Chevron USA, Inc., and its affiliates Chevron Midcontinent, LP, And Four Star Oil & Gas Company (Chevron)	Poulson Odell & Peterson, LLC 1775 Sherman Street, Suite 1400 Denver, CO 80203 303-861-4400 Scott M. Campbell scampbell@popllc.com Jeremy I. Ferrin jferrin@popllc.com
Cheyenne County [NEW 1/9/14] P O Box 567 South 1st Cheyenne Wells, CO 80810 Nancy Bogenhagen, Commissioner/Chair Rod Pelton, Commissioner Patrick J. Ward, Commissioner	ccadmin@rebeltec.net
City of Greeley 1100 10 th Street Greeley, CO 80634 970-350-9786	Brad Mueller, Director of Community Development Brad.Mueller@greeleygov.com
Colorado Association of Commerce & Industry (CACI) 1600 Broadway, Suite 1000 Denver, CO 80202 303-866-9622	Carly West cwest@cochamber.com
Colorado Oil & Gas Association P O Box 540 Denver, CO 80201 303-861-0362 Tisha Schuller Tisha.Schuller@coga.org Andrew Casper Andrew.Casper@coga.org	Jost & Shelton Energy Group, P.C. 1675 Larimer Street, Suite 420 Denver, CO 80202 720-379-1812 Jamie L. Jost jjost@jsenergygroup.com James P. Parrot jparrot@jsenergygroup.com

<p>Colorado Petroleum Association (CPA) 1700 Lincoln Street, Suite 2545 Denver, CO 80203 303-860-0099</p> <p>Stan Dempsey, Jr. stan@coloradopetroleumassociation.org</p>	<p>Hogan Lovells US, LLP 1200 Seventeenth Street, Suite 1500 Denver, CO 80202</p> <p>Jennifer L. Biever, Esq. 303-454-2410 Jennifer.Biever@hoganlovells.com</p> <p>Ana Maria Gutierrez, Esq. 303-454-2514 Ana.Gutierrez@hoganlovells.com</p>
<p>Colorado Utilities Coalition for Clean Air (Individually and Members of include: Platte River Power Authority, Tri-State Generation and Transmission Association Inc., Public Service Company of Colorado d/b/a Xcel Energy , and Colorado Springs Utilities)</p>	<p>Ryley Carlock & Applewhite 1700 Lincoln Street, Suite 3500 Denver, CO 80203 303-863-7500</p> <p>James W. Sanderson jsanderson@rcalaw.com</p> <p>Julie A. Rosen jrosen@rcalaw.com</p>
<p>DCP Midstream, LP 370 17th Street, Suite 2500 Denver, CO 80202</p>	<p>Carver Schwarz McNab Kamper & Forbes, LLC 1600 Stout Street, Suite 1700 Denver, CO 80202 303-893-1815</p> <p>Jeffrey W. Schwarz, Esq. jschwarz@csmkf.com</p> <p>Stewart McNab, Esq. smcnab@csmkf.com</p>

<p>DGS Client Group (includes: Bill Barrett Corporation, Black Hills Exploration and Production, Bonanza Creek Energy Inc., PDC Energy Inc., and Whiting Oil and Gas Corporation)</p>	<p>Davis Graham & Stubbs, LLP 1550 17th Street, Suite 500 Denver, CO 80202-1500 303-892-9400</p> <p>John R. Jacus, Esq. John.Jacus@dgsllaw.com Zach C. Miller, Esq. Zach.Miller@dgsllaw.com Radcliffe Dann IV, Esq. Randy.Dann@dgsllaw.com Eric P. Waeckerlin, Esq. Eric.Waeckerlin@dgsllaw.com</p>
<p>Earthworks Oil and Gas Accountability Project (OGAP) P O Box 1102 Durango, CO 81302</p>	<p>Earthjustice 1400 Glenarm Place, Suite 300 Denver, CO 80202 303-623-9466 Robin L. Cooley rcooley@earthjustice.org</p> <p>Michael S. Freeman mfreeman@earthjustice.org</p>
<p>Encana Oil & Gas (USA), Inc. (Encana)</p>	<p>Beatty & Wozniak, P.C. 216 16th Street, Suite 1100 Denver, CO 80202 303-407-4499 James Martin jmartin@bwenerylaw.com</p>
<p>Environmental Defense Fund (EDF) 2060 North Broadway, Suite 300 Boulder, CO 80302 303-447-7213</p> <p>Dan Grossman Rocky Mountain Regional Director and Senior Attorney dgrossman@edf.org</p>	<p>The Gallagher Law Group 2060 North Broadway, Suite 280 Boulder, CO 80302 303-800-6901 Thomas A. Bloomfield tbloomfield@thegallaghergroup.com</p> <p>DeLone Law, Inc. 1555 Jennine Place Boulder, CO 80304-1834 303-442-0610 Elizabeth DeLone Paranhos elizabethparanhos@delonelaw.com</p>

<p>Garfield County 195 West 14th Street Rifle, CO 81650 970-625-5200</p> <p>Board of County Commissioners: John Martin- Chair, Tom Jankovsky and Mike Samson</p> <p>Environmental Health Manager: Paul Reaser</p> <p>Oil and Gas Liaison: Kirby Wynn</p> <p>County Attorney: Frank Hutfless</p>	<p>Kirby Wynn Oil and Gas Liaison 970-625-5905 kwynn@garfield-county.com</p>
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<p>Grand Valley Citizens Alliance (GVCA), Weld Air and Water (WAW), Community Alliance of the Yampa Valley (CAYV), Citizens for Clean Air (CCA), Western Colorado Congress (WCC), and NFRIA-WSERC Conservation Center</p> <p>Grand Valley Citizens Alliance (GVCA) P O Box 656 Silt, CO 81652 Bob Arrington, GVCA Member</p> <p>Weld Air and Water (WAW) 1717 17th Avenue Greeley, CO 80631 Wendy Highby, Founding Member</p> <p>Community Alliance of the Yampa Valley P O Box 772695 Steamboat Springs, CO 80477 Rodger Steen, Board Member</p> <p>Citizens for Clean Air (CCA) 514 Rado Drive #F Grand Junction, CO 81507 Tom Phillips, Board Member</p> <p>Western Colorado Congress (WCC) P O Box 1931 Grand Junction, CO 81502 Rein van West, President</p> <p>NFRIA-WSERC Conservation Center P O Box 1612 204 Poplar Avenue Paonia, CO 81428 Sarah Sauter, Executive Director</p>	<p>Matthew Sura, Esq. 4291 Prado Drive Boulder, CO 80303 720-563-1866 mattsura.law@gmail.com</p>
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<p>La Plata County 1060 East 2nd Avenue Durango, CO 81301 970-382-6200</p> <p>Board of County Commissioners: Robert “Bobby” Lieb, Jr. – Chair, Julie Westendorff, and Gwen Lachelt</p>	<p>Todd A. Weaver, Esq. Deputy County Attorney La Plata County Attorney’s Office 1099 Main Avenue, Suite 313 Durango, CO 81301 970-382-8600 weaver@lpcattorney.org</p> <p>Courtney Roseberry La Plata County Natural Resources Planner 1060 East 2nd Avenue Durango, CO 81301 970-382-6390 Courtney.Roseberry@co.laplata.co.us</p> <p>Leslie Jakoby La Plata County Environmental Specialist 1060 Main Avenue, Suite 104 Durango, CO 81301 970-382-6376 Leslie.Jakoby@co.laplata.co.us</p>
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<p>Local Government Coalition (includes City and County of Denver, La Plata County, San Miguel County, Pitkin County, Boulder County, Adams County, City of Fort Collins, City of Boulder)</p>	<p><i>On behalf of Boulder County:</i> Pamela H. Milmoe Air Quality Coordinator Boulder County Public Health 3450 Broadway Boulder, CO 80304 303-441-1189 pmilmoe@bouldercounty.org Ben Doyle Assistant County Attorney Boulder County P O Box 471 Boulder, CO 80306 303-441-3854 bdoyle@bouldercounty.org</p> <p><i>On behalf of the City and County of Denver:</i> Gregg W. Thomas Manager of Air, Water, and Climate Section City and County of Denver Department of Environmental Health 201 West Colfax Avenue, Dept. 1009 Denver, CO 80202 720-865-5413 Gregg.Thomas@denvergov.org</p> <p>Jessica R. Brody Assistant City Attorney City and County of Denver 201 West Colfax Avenue, Dept. 1207 Denver, CO 80202 720-913-3267 Jessica.Brody@denvergov.org</p> <p>Katherine Wilmoth Assistant City Attorney City and County of Denver 201 West Colfax Avenue, Dept. 1207 Denver, CO 80202 720.913-3253 Katherine.Wilmoth@denvergov.org</p>
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<p>Mesa County 544 Rood Avenue Grand Junction, CO 81501 970-244-1605</p> <p>John Justman, Mesa County Commissioner John.Justman@mesacounty.us</p>	<p>Mesa County Planning 200 South Spruce Street Grand Junction, CO 81501 Randy Price, Senior Planner Randy.Price@mesacounty.us 970-244-1759</p> <p>Mesa County Public Works 200 South Spruce Street Grand Junction, CO 81501 Pete Baier, Director 970-244-1689 Peter.Baier@mesacounty.us</p>
<p>Moffat County 221 West Victory Way Suite 250 Craig, CO 81625 970-824-9115 (Phone)</p> <p>Charles G. Grobe, Commissioner CGrobe@moffatcounty.net</p>	<p>Jeff Comstock Natural Resources Director Moffat County 221 West Victory Way Suite 130 Craig, CO 81625 970-826-3400 (Phone) JComstock@moffatcounty.net</p>
<p>Montezuma County 109 West Main, Room 302 Cortez, CO 81321 970-565-8317 (Phone)</p> <p>Board of County Commissioners Steve Chappell – Chair Keenan G. Ertel, Commissioner Larry Don Suckla, Commissioner John Baxter, County Attorney Melissa Brunner, County Administrator John Dietrich, Office of Community Services</p>	<p>John Dietrich Office of Community Services 109 West Main Room 304 Cortez, CO 81321 970-565-7402 jdietrich@co.montezuma.co.us</p>

<p>Natural Resources Defense Council (NRDC) 1152 15th Street, NW Washington, DC 20005 202-289-6868</p>	<p>Earthjustice 1400 Glenarm Place, Suite 300 Denver, CO 80202 303-623-9466</p> <p>Robin L. Cooley rcooley@earthjustice.org</p> <p>Michael S. Freeman mfreeman@earthjustice.org</p>
<p>Noble Energy, Inc. & Anadarko Petroleum Corporation</p>	<p><i>For both Noble and Anadarko:</i> Denise W. Kennedy, Esq. Holland & Hart, LLP 555 17th Street, Suite 3200 Denver, CO 80202 303-295-8066 dkennedy@hollandhart.com</p> <p><i>For Noble:</i> Denee A. DiLuigi, Esq. Noble Energy, Inc. 1625 Broadway, Suite 2200 Denver, CO 80202 303-228-4251 DDiluigi@nobleenergyinc.com</p> <p><i>For Anadarko</i> Julia A. Jones, Esq. Anadarko Petroleum Corporation 1099 18th Street, Suite 1800 Denver, CO 80202 720-929-6850 Julia.Jones@anadarko.com</p>

<p>Phillips County 221 South Interoccean Avenue Holyoke, CO 80734 970-854-3778 Board of County Commissioners: K. Joe Kinnie-Chair, Donald J. Lock, and Harlan Stern</p>	<p>Randy Schafer, Administrator Randy.Schafer@phillipscounty.co</p> <p>Laura Schroetlin, Administrative Assistant Laura.Schroetlin@phillipscounty.co</p>
<p>Pioneer Natural Resources USA, Inc. 1401 17th Street, Suite 1200 Denver, CO 80202 303-298-8100</p>	<p>Douglas P. Wall, Associate General Counsel Doug.Wall@pxd.com</p>
<p>Regional Air Quality Council (RAQC) 1445 Market Street, Suite 260 Denver, CO 80202 303-629-5450</p>	<p>Kenneth H. Lloyd, Executive Director 303-629-5450 X-250 klloyd@raqc.org</p>
<p>Rio Blanco County Colorado 200 Main Street Meeker, CO 81641 970-683-8799 (Phone)</p> <p>Shawn Bolton sbolton@co.rio-blanco.co.us</p>	<p>Mark Sprague, Natural Resource Specialist 200 Main Street Meeker, CO 81641 970-878-9584 (Phone) msprague@co.rio.blanco.co.us</p>
<p>Sierra Club 620 16th Street, Suite 300 Denver, CO 80202</p>	<p>Earthjustice 1400 Glenarm Place, Suite 300 Denver, CO 80202 303-623-9466</p> <p>Robin L. Cooley rcooley@earthjustice.org</p> <p>Michael S. Freeman mfreeman@earthjustice.org</p>
<p>Washington County 150 Ash Street Akron, CO 80720 970.345.2701 Board of County Commissioners: David Foy – Chair, Lea Ann Laybourn, and Terry Hart</p>	<p>Chris Packer, Administrator CPacker@co.washington.co.us</p> <p>Val Foutz, Assistant to Board VFoutz@co.washington.co.us</p>

Weld County 1150 O Street P O Box 758 Greeley, CO 80632 970-336-7234 Board of County Commissioners: William “Bill” Garcia – Chair, Douglas Rademacher, Sean Conway, Mike Freeman and Barbara Kirkmeyer	Bruce T. Barker, Attorney bbarker@co.weld.co.us
Wildearth Guardians (WEG) 1536 Wynkoop, Suite 301 Denver, CO 80202	Earthjustice 1400 Glenarm Place, Suite 300 Denver, CO 80202 303-623-9466 Robin L. Cooley rcooley@earthjustice.org Michael S. Freeman mfreeman@earthjustice.org
Worldwide Liquid Solutions, LLC 700 Independent Avenue Grand Junction, CO 81505	Dan Wilson, Attorney-at-Law 607 25 Road, Suite 201 Grand Junction, CO 81505 970-248-5800 Dan@danwilsonlaw.us
XTO Energy, Inc (XTO) 9127 South Jamaica Street Englewood, CO 80112 303-397-3657 Karen Hill-Pratt, Regulatory Affairs Advisor Karen_Hill-Pratt@xtoenergy.com	XTO Energy, Inc. 714 Main Street Fort Worth, TX 76102 817-885-6802 Michael Cannon, Counsel Michael_Cannon@xtoenergy.com
Yuma County 310 Ash Street, Suite A Wray, CO 80758 970-332-5796 Board of County Commissioners: Robin Wiley – Chair, Dean Wingfield and Trent Bushner	Linda Briggs, Yuma County Administrator adminlanduse@co.yuma.co.us Vicky Southards, Yuma County Finance Officer finance@co.yuma.co.us

/s/ Lisa A. Decker

Lisa A. Decker